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BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
GENERAL METALS OF TACOMA, INC.,

Appellant,

v.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 82-118

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW & ORDER

This matter, the appeal of a notice and order of civil penalty for the alleged violation of airborne particulate matter standards, came on for hearing before the Pollution Control Hearings Board; Gayle Rothrock (presiding) and Larry Faulk at Lacey, Washington in an informal hearing on February 9, 1983. The proceedings were electronically recorded.

Appellant appeared through its plant manager, Robert Vail. Respondent appeared through its attorney, Keith D. McGoffin.

Witnesses were sworn and testified. Exhibits were examined and

1 admitted. From the testimony heard and exhibits examined, the
2 Pollution Control Hearings Board makes these

3 FINDINGS OF FACT

4 I

5 Respondent, pursuant to RCW 43.21B.260, has filed with the Board a
6 certified copy of its current Regulations I and II, which are noticed.

7 II

8 On July 27, 1982, respondent's inspector noticed some apparent
9 reddish-brown dust emissions from cranes handling scrap metal at
10 appellant General Metals of Tacoma's business site on Marine View
11 Drive by the Hylebos waterway in Tacoma. The inspector positioned
12 himself to observe the site for 30 minutes, take 8mm movies and
13 photographs of the scene, and determine whether the operation was in
14 compliance with emissions standards of Regulation I. The inspector
15 observed the emissions were being carried downwind in excess of 200
16 feet as the cranes dropped scrap metal approximately 20 feet to the
17 ground.

18 III

19 Respondent's inspector filmed and photographed the event and
20 proceeded to the company's office with a field notice of violation
21 attempting to locate a responsible person. He left a note with the
22 president's secretary and did not show the 8mm film to anyone there.
23 Early in the afternoon the plant manager telephoned the inspector and
24 was informed of the dust emissions and the forthcoming notice of
25 violation. A discussion ensued wherein the manager informed the
26 inspector of the time consuming effort involved

1 in reducing the drop distance lower than 20 feet and his lack of
2 awareness of any method to decrease the dust caused by rusty metal
3 impacting other objects or the ground, since wetting down the piles
4 was totally impractical.

5 IV

6 Respondent's inspector reported there were clear skies that day
7 and a 5 mph wind from the north-northwest. Appellant reports there
8 was a rather stiff wind that day which made the operation of the two
9 grapple cranes and one magnetic crane a more probable dust producer.

10 V

11 Respondent sent, by certified mail, a Notice and Order of Civil
12 Penalty No. 5592 of \$250 on August 18, 1982, for the alleged violation
13 of Section 9.15 of Regulation I, pursuant to the authority granted to
14 it under the Clean Air Act. From this appellant appeals to the Board.

15 VI

16 Any Conclusion of Law which should be deemed a Finding of Fact is
17 hereby adopted as such.

18 From these Findings the Board comes to these

19 CONCLUSIONS OF LAW

20 I

21 The Clean Air Act and Regulation I, at Section 9.15(a) and (c)
22 makes it unlawful for any person to cause or permit particulate matter
23 to be handled, transported, or stored without taking reasonable
24 precautions to prevent that particulate matter from becoming airborne,
25 and for untreated open areas to be maintained without taking
reasonable precautions to prevent airborne particulate.

1 Appellant did violate Section 9.15 on July 27, 1982, through its
2 crane handling operation by not taking some reasonable precaution to
3 prevent rusted metal dust from becoming airborne and traveling at
4 least 200 feet.

5 II

6 This is apparently the first air pollution violation associated
7 with the crane handling operation at General Metals of Tacoma and, as
8 such, should not necessarily experience the full extent of a penalty.

9 III

10 Any Finding of Fact which should be deemed a Conclusion of Law is
11 hereby adopted as such.

12 From these Conclusions the Board enters this
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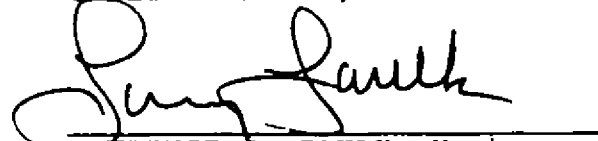
ORDER

Notice and Order of Civil Penalty No. 5592 is affirmed; provided, however, that \$125 is suspended on condition appellant not violate respondent's Regulation I, Section 9.15 for a period of one year following the effective date of this Order.

DONE this 27th day of February, 1983.

POLLUTION CONTROL HEARINGS BOARD


GAYLE ROTHROCK, Chairman


LAWRENCE J. FAULK, Member